

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STEPHANIE CLIFFORD,

Plaintiff,

v.

SHANA M. KECKLEY, *et al.*,

Defendants.

Case No. 2:19-cv-00119

Judge Michael H. Watson

Magistrate Judge Elizabeth
Preston Deavers

**MICHAEL J. AVENATTI'S OPPOSITION RE: COLLECTING
ATTORNEY'S FEES**

I. INTRODUCTION

Interested Parties Michael J. Avenatti and Avenatti & Associates, APC, respectfully submit this opposition to Plaintiff Stephanie Clifford's Brief Re: Attorney Fees. *See* ECF No. 54.

Plaintiff incorrectly maintains that the interest of her current attorneys in their fees is "unaffected by the unadjudicated interest in her award and settlement" that is currently being addressed in an arbitration proceeding in California. *See* Exhibits 1–2 ("Demand for Arbitration" and Commencement Letter). Like Mr. Brewer and his firm, Mr. Avenatti was Plaintiff's prior attorney in the instant case.

Accordingly, under California law, Mr. Avenatti is entitled to a portion of the attorney's fees recovered in this case as compensation for the reasonable value of his services to Ms. Clifford. In fact, an argument can be made that Mr. Avenatti, as Plaintiff's first attorney, is entitled to be compensated *before* any other counsel for the Plaintiff.

II. ARGUMENT

Mr. Avenatti performed significant legal services for Plaintiff in connection with this matter. Indeed, Mr. Avenatti represented Plaintiff for months in connection with the case, from the moment of her arrest up through and including preliminary settlement negotiations in this civil case. This work included, but was not limited to, investigating the underlying facts, engaging in pre-filing discovery, numerous communications with the City of Columbus, travelling to Columbus for a sit-down meeting with City officials, and multiple drafts of the Complaint prior to filing. In fact, Plaintiff and Mr. Avenatti expressly agreed that Mr. Avenatti was taking the "laboring oar" in the case. Mr. Avenatti also contacted and retained Plaintiff's local counsel in the matter.

Under California law, whether or not there is a written fee agreement governing the attorney-client relationship, the attorney is entitled to be compensated for the reasonable value of his services. *See* Cal. Bus. & Prof. Code § 6147(b), 6148(c); *Flannery v. Prentice*, 26 Cal.4th 572, 588–89 (2001). That

amount is what the California arbitrator will determine in the first instance. *Cf. Hendricks v. Superior Court (Sefton)*, 197 Cal. App. 2d 586, 589 (1961); *Carroll v. Interstate Brands Corp.*, 99 Cal. App. 4th 1168, 1173 (2002) (validity of claim to portion of settlement must be determined in an *independent action* under California law, the determination cannot be made in the lawsuit at issue).

Mr. Avenatti asked counsel for the City of Columbus to add his name to the settlement check, which would have protected Mr. Avenatti's interest until the pending arbitration was resolved. Instead, the Court interpleaded the settlement in this case, which should have the same effect. Because both Mr. Avenatti and Ms Clifford's current lawyers performed legal services for Ms. Clifford, the Court should await the outcome of the pending arbitration, JAMS Ref. No. 1210035344, before allocating attorney fees to the respective attorneys.

III. CONCLUSION

The Court should have the Clerk's Office maintain the interpleaded funds until Mr. Avenatti's pending arbitration against Ms. Clifford is resolved and a proper allocation of fees is determined.

Dated: December 30, 2019

Respectfully submitted,

**Pierce Bainbridge Beck Price & Hecht
LLP**

A handwritten signature in blue ink, consisting of a large, stylized 'W' followed by a horizontal line.

By: _____

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Avenatti & Associates, APC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was filed and served on all parties through the Court's CM/ECF filing system on December 30, 2019.

A handwritten signature in blue ink, consisting of a large 'W' followed by a horizontal line.

Thomas D. Warren (77541)
Counsel for Michael Avenatti, Esq.
and Avenatti & Associates, APC